

**Chesapeake Bay Local Assistance Board
Local Program Review Committee for the Northern Area
Department of Conservation and Recreation
101 N. 14th Street, 17th Floor, James Monroe Building
Richmond, Virginia
Tuesday, February 15, 2005**

DRAFT MINUTES

NARC Members Present

Mr. Donald W. Davis, Chair
Mr. William E. Duncanson

Mr. David L. Bulova
Mr. Walter J. Sheffield

DCR Staff Present

Mr. C. Scott Crafton, Acting Director, Division of Chesapeake Bay Local Assistance
Ms. Martha Little, Chief of Environmental Planning
Ms. Shawn Smith, Principal Environmental Planner
Ms. Heather Mackey, Principal Environmental Planner
Ms. Beth Baldwin,
Mr. Michael Fletcher, Director of Development

Local Government Officials Present

Fairfax County

Noel Kaplan
Pamela Nee
Mary Ann Welton

Call to Order and Opening Remarks

Mr. Davis called the meeting to order and asked for the calling of the roll. A quorum was declared present. Mr. Davis asked Mr. Crafton for comments.

Mr. Crafton said that the Department has received a coastal grant from DEQ to develop a perennial water body determination field guide. The project must be completed by October. This project will be put out for competitive bid.

Staff is working on the development of white papers to address issues raised at the Board retreat in November.

Staff has been dealing with the policy on residential IDAs. The intent had been to implement and later revise the regulations. Counsel has said there were significant

enough differences that it should not be adopted. Staff has revisited this issue and now compare the situation to local comprehensive stormwater management programs submitted as alternatives to the Board requirements that achieve equivalent results. Tacit in the Board's approval of such alternatives is agreement by the locality to enforce their provisions. Staff discussed with Mr. Chaffe the option of viewing IDA or Buffer Exemption guidance in a simpler way – as establishing the acceptable basis for an alternative equivalent approach to addressing the issue of encroachment into the buffer, assuring adequate mitigation and water quality protection. Mr. Chaffe agreed this could be done, but believes the guidance should be incorporated into the regulations as a local option. This would apply to the older, smaller lots that were established before the Bay Act.

Mr. Crafton distributed copies of the new Tributary Strategies documents. The Bay Act principles are prominent among the nonpoint source strategies.

Mr. Crafton noted that Mr. Maroon has advertised to fill the permanent Division Director Position. This is a classified position and must be advertised to the general public. Mr. Crafton noted that he currently is in an appointed position.

Mr. Crafton introduced Daniel BenYisrael, a new planner on staff.

Local Program Reviews: Phase I

Town of Kilmarnock

Ms. Baldwin presented the following report for the Town of Kilmarnock.

The Town of Kilmarnock adopted its revised Phase I program in March 2003. The Board found the program consistent with the Act and Regulations on June 21, 2004 provided that the Town undertook and completed the five recommendations listed in the Resolution by December 31, 2004.

In late summer of 2004, the Department provided revisions to the Town's Bay Act overlay district to address the five conditions for consistency. These revisions were reviewed by the Town's Planning Commission in the Fall of 2004 and adopted by the Town Council in a public meeting on November 15, 2004.

These changes included adding the definitions of public road and substantial alteration that are consistent with the Regulations, ensuring that any proposed land disturbance regardless of area of disturbance, is subject to a site specific Resource Protection Area (RPA) determination, adding the required criteria when permitting redevelopment in RPAs, and revising the Exceptions section to include all of the required findings when considering a formal exception. The Town also added the phrase "mitigate the effects of" to be consistent with the language in the buffer performance criteria when permitting

encroachments in the landward 50 feet of the RPA on lots platted prior to October 1, 1989.

In addition, the Town made all of the suggested revisions to clarify certain aspects of its Bay Act overlay district. These revisions were all consistent with the Act and Regulations.

Staff recommended that the Town of Kilmarnock's Bay Act overlay district be found consistent since all recommendations have been adequately addressed.

Mr. Bulova asked if "substantial alteration" was defined in the regulations.

Ms. Baldwin said that the regulations state that any land disturbance over 2,500 sq. ft. in an RMA is considered substantial alteration.

MOTION: Mr. Duncanson moved that the Northern Area Review Committee recommend to the Chesapeake Bay Local Assistance Board that the Town of Kilmarnock's Phase I program be found consistent with § 10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

SECOND: Mr. Sheffield.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Mr. Davis asked about the DCR program on NPDES permits on impacts greater than one acre. He said that his understanding was that it is being interpreted now that if a property is a Chesapeake Bay locality that there must be a permit for any disturbance over 2,500 sq. ft.

Mr. Crafton said that this determination was made that if the site is within a designated CBPA that this does apply. The Federal Regulations require permitting for disturbances greater than one acre. The Bay Act requires permitting for areas greater than 2,500 square feet. The states's stormwater law, revised in 2004, and the EPA's 2004 program authorization to DCR both recognize that state Virginia Stormwater Management Permits for construction are required for 2,500 sq. ft. and above in CPBAs. Lee Hill oversees the stormwater permitting program for DCR.

Mr. Davis said that it would be helpful if localities got clarification.

Ms. Little noted that Mr. Hill has been meeting with localities at various venues.

Town of Montross

Ms. Baldwin gave the following report for the Town of Montross.

The Town Council of Montross adopted its revised Phase I program in December 2003. The amended Phase I program was approved by the Board on June 21, 2004 with one condition, that the Town re-adopt its program by December 31, 2004 once Westmoreland County had revised and adopted the required changes to its Bay Act overlay district.

This condition of re-adoption is required because the Town code references Westmoreland County's Bay Act overlay district. However, the Town cannot adopt by reference any future changes that Westmoreland may make to its Bay Act ordinance. Consequently, any revisions that Westmoreland makes to its Bay Act overlay district requires the Town to re-adopt its Phase I program.

Westmoreland County adopted the required revisions to its Bay Act overlay district in August 2004. The Town of Montross then "re-adopted" its revised Phase I program on December 13, 2004.

Since the Town of Montross adequately addressed the one condition, it is staff's opinion that the Town's local program be found consistent.

MOTION: Mr. Sheffield moved that the Northern Area Review Committee recommend to the Chesapeake Bay Local Assistance Board that the Town of Montross' Phase I program be found consistent with § 10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

SECOND: Mr. Duncanson.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Northumberland County

Ms. Baldwin gave the following report for Northumberland County.

Northumberland County adopted its revised Phase I program on February 11, 2004 and the amended ordinance was given an effective date of May 1, 2004.

At its June 21, 2004 meeting, the Board found Northumberland's amended Phase I program consistent with the Act and Regulations provided that the County undertake and complete the five recommendations by December 31, 2004.

In the summer of 2004, the County amended its Bay Act ordinance and incorporated the required recommendations. The County's Board of Supervisors adopted the proposed amendments in a public hearing on October 14, 2004.

Regarding the first recommendation, the County added a definition of substantial alteration that is consistent with the Regulations. The County addressed recommendations 3 and 4, pertaining to expansion of nonconforming structures, by clarifying that only principal structures may be expanded through an administrative process and that all findings required by the Regulations must be met in order to permit the expansion. The County deleted the alternating drainfield option and 5-year provision of approved site plans. These deletions satisfied the requirements of recommendations 2 and 5.

The County made a few of the suggested changes. These changes were not required for consistency with the Regulations but rather proposed to improve overall program administration.

Since the County addressed all of the recommendations listed in the June 21, 2004 Board resolution, it is staff opinion that the County's program be found consistent.

MOTION: Mr. Duncanson moved that the Northern Area Review Committee recommend to the Chesapeake Bay Local Assistance Board that Northumberland County's Phase I program be found consistent with § 10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

SECOND: Mr. Sheffield.

DISCUSSION: Mr. Bulova asked for clarification regarding the removal of the 5-year provision of approved plans.

Ms. Baldwin explained that the County was willing to remove the 5-year provision, but was not comfortable with establishing a one-year provision. Due to the damage from hurricane Isabel, a large number of plans have been approved, however, the availability of contractors to perform the work within the time frame is limited.

VOTE: Motion carried unanimously.

Westmoreland County

Ms. Baldwin presented the report for Westmoreland County.

In the summer of 2004, the County amended its Bay Act ordinance to address the four recommendations cited in the June 21, 2004 Board resolution. The County adopted these proposed amendments in a public hearing on August 9, 2004.

To address the recommendations, the County added a definition of public roads and revised its definition of Resource Protection Area in the definition section of its Zoning Ordinance. Both the added and revised definitions are consistent with the Regulations. The County added the required criteria for allowing new or expanded water dependent structures and redevelopment in the RPA. Finally, the County significantly revised the Exceptions section of its overlay district. The revisions are consistent with the Act and Regulations and furthermore remove the potentially heavy administrative burden of having all exceptions require the formal process.

Since the County addressed all recommendations, it is staff's opinion that the County's Bay Act overlay district be found consistent with the Act and Regulations.

MOTION: Mr. Duncanson moved that the Northern Area Review Committee recommend to the Chesapeake Bay Local Assistance Board that Westmoreland County's Phase I program be found consistent with § 10.1-2109 of the Act and §§ 9VAC10-20-60 1 and 2 of the Regulations.

SECOND: Mr. Sheffield.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Town of White Stone

Ms. Baldwin gave an update for the Town of White Stone.

The Town of White Stone has indicated that they will adopt a plan similar to that of Lancaster County. This is a measure to support the County. The County has indicated that they will agree to 6 out of the 10 recommendations.

Staff continues to work with the Town of White Stone. No action was required.

Mr. Crafton indicated that the Attorney General's Office has been in contact with Lancaster County. A full report will be provided to the Board at the March Meeting.

City of Falls Church

Ms. Mackey presented the report for the City of Falls Church.

On September 20, 2004, the Board found the City of Falls Church's Chesapeake Bay Preservation Ordinance consistent with one condition: that the City revise the ordinance by December 31, 2004 to ensure that placement of BMPs in the RPA either complies with all criteria enumerated in §9VAC10-20-130 1e or is reviewed and approved as an exception. The City made the ordinance change as requested, therefore staff recommends that the amendments adopted by the City of Falls Church on September 13, 2004 be found consistent with the requirements of the Act and Regulations.

MOTION: Mr. Bulova moved that the Northern Area Review Committee recommend to the Chesapeake Bay Local Assistance Board that the City of Falls Church's amended Phase I program be found consistent with § 10.1-2109 of the Act and § 9 VAC 10-20-60 1 and 2 of the Regulations.

SECOND: Mr. Duncanson.

DISCUSSION: None.

VOTE: Motion carried unanimously.

King William County

Ms. Miller presented the report for King William County.

King William County adopted its Phase I program on March 28, 1991, amended it on September 26, 1991, and the Board found it consistent on December 5, 1991.

The County began the revision process in 2002 with assistance from Department staff but did not adopt the changes by December 31, 2003 despite correspondence from Department staff and written reminders from the Director and the Chairman of the Board. On January 30, 2004 the County requested a deadline extension to July 31, 2004, and on June 21 the Board found the County inconsistent due to failure to meet the December 31, 2003 deadline, setting a final deadline of July 31, 2004.

The County did not adopt by the July 31, 2004 deadline, hampered by staff vacancies until the Community Development Director's position was filled in July. The County provided new drafts to the Department in August and September of 2004. Meanwhile,

the Board's process for those localities that had failed to adopt by the December 31, 2003 deadline was still underway, and on September 20, 2004 the Board again found the County's program inconsistent. The County finalized its draft revisions and on November 22, 2004 adopted a revised CBPA Overlay District, effective immediately.

The Department reviewed the revised CBPA Overlay District in January 2005 and prepared a draft staff report that included one recommendation for consistency. County staff reviewed the draft staff report, advised the Department that the County had originally included the required language in its draft revisions and provided a corrected copy of the revised CBPA Overlay District to the Department. As a result, the draft staff report has been revised to reflect this. The object of the condition was a requirement that water dependent facilities in the RPA satisfy the performance standards, as required by the Regulations.

General Information

The County's CBPA Overlay District revisions were made to address all changes required by the Regulations. The CBPA Overlay District now includes all the specific conditions required for permitting buffer modifications, and the County maintained its CBPA criteria so there is no change in the designated CBPAs.

The County retained the requirements for on-site septic system pump-out and 100 percent reserve drainfield sites, and added alternatives to the pump-out requirement, providing the options of inspection or installation of a plastic filter in lieu of the five-year pump-out.

WQIA and Plan of Development Processes

The County now requires a major WQIA for all proposed land disturbance, development or redevelopment in the RPA, and for land disturbance over fifty thousand square feet in the RMA. A minor WQIA is required for any proposed land disturbance, development or redevelopment in the RMA between two thousand five hundred and fifty thousand square feet in size, and for the proposed placement of a drainage structure in the RMA.

Site plan submission and review requirements, as specified in a separate article of the Zoning Ordinance, are incorporated by reference in the Plan of Development Process. The process includes a requirement that plans include notations, where applicable, regarding maintenance of the buffer area, restrictions on development in the RPA, and locations of reserve sewage disposal sites with respect to all construction plans, land disturbance permits, building permits, site plans and subdivision plats. Plans, permits and plats must also include delineation of the buildable area allowed on each lot.

Administrative Review and Formal Exception Review Processes

The County retained the administrative review of buffer area encroachments on lots recorded prior to October 1, 1989 which lack sufficient buildable area outside the RPA, and added an administrative review for similar lots recorded between October 1, 1989 and March 1, 2002.

Exceptions to the general performance criteria may be processed through an administrative review, subject to the findings required in the Regulations, and a formal review process is required for exceptions to the RPA requirements. The formal process includes public notice and a public hearing before the local Planning Commission, and requires the same findings. The County's CBPA Overlay District provides for the continuation of existing nonconforming uses and structures, but any expansions must be reviewed through the formal exception process subject to the conditions and findings as specified in the Regulations.

Conclusion

King William County's amended Phase I program adequately addresses all required amendments and the Department has no recommendations for consistency.

Staff Recommendation

Staff recommended that the local program amendments adopted by King William County on November 22, 2004 be found consistent with the Act and the Regulations.

MOTION: Mr. Duncanson moved that the Northern Area Review Committee recommend to the Chesapeake Bay Local Assistance Board that the amendments to King William County's Phase I program be found consistent with § 10.1-2109 of the Act and § 9 VAC 10-20-60 1 and 2 of the Regulations.

SECOND: Mr. Sheffield.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Local Program Reviews: Phase II – Comprehensive Plans

Fairfax County

Ms. Mackey presented the report for Fairfax County. She noted that Noel Kaplan, Pamela Nee, and Mary Ann Welton were present representing the County.

On March 19, 2001 the Board found Fairfax County's Comprehensive Plan to be consistent with the Act and Regulations with four conditions to be addressed prior to December 31, 2003. In March 2004, the Board granted a deadline extension request by the County to December 31, 2004. On November 15, 2004 the Fairfax County Board of Supervisors adopted an amendment to the County's Comprehensive Plan and a Chesapeake Bay supplement to the Plan that addressed the four outstanding conditions.

Board Recommendation #1 required that a map of the County's Chesapeake Bay Preservation Area components be included in the Comprehensive Plan. A map and a brief discussion of the designated CBPAs can be found in the Plan supplement.

Board Recommendation #2 required that the County complete a shoreline erosion control inventory and develop policies and implementation strategies for use by the County's Wetland Board in their analysis of shoreline erosion control structures. The Plan supplement contains an extensive discussion of shoreline erosion, stability and sensitivity, an inventory and analysis of areas of erosion and documentation of existing erosion control structures. It also contains specific policy statements and implementation strategies that are incorporated into the Plan amendment.

Board Recommendation #3 required an analysis of waterfront access issues affecting the County's shorelines, including an inventory of existing and potential public and private access sites. The Plan supplement contains an extensive discussion of existing shoreline access points and areas of opportunity for additional access. It also contains corresponding policy statements and implementation strategies and discusses siting criteria for marinas and other boating access sites. Shoreline access policy statements and implementation strategies are incorporated into the Plan amendment.

Board Recommendation #4 required Plan revisions to develop policies that address the recommendations that affect water quality as outlined in the County's "Infill and Residential Development Study." The County conducted an inventory of existing pollution sources based upon information available concerning VPDES permits, underground storage tanks, SARA Title III data, sanitary sewer and septic system data, etc. The Plan supplement contains corresponding policy statements and implementation strategies that are incorporated into the Plan amendment.

As usual, the County planning staff has done quality work.

Staff finds that the Board recommendations are adequately addressed in the adopted Plan amendment and Chesapeake Bay supplement, and recommends that the local program amendments adopted by Fairfax County on November 15, 2004 be found consistent with the requirements of the Act and Regulations.

MOTION: Mr. Bulova moved that the Northern Area Review Committee recommend to the Chesapeake Bay Local Assistance Board that Fairfax County's amended Phase II program be found consistent

with § 10.1-2109 of the Act and § 9 VAC 10-20-60 3 of the Regulations.

SECOND: Mr. Duncanson.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Town of Kilmarnock

Ms. Baldwin gave the report for the Town of Kilmarnock.

The Town of Kilmarnock adopted its Comprehensive Plan on October 25, 1999. The Board reviewed the program and, on June 19, 2000, found Kilmarnock's Phase II program consistent with the Act and Regulations provided that it undertook and completed the four recommendations by December 31, 2004.

The Town is requesting a one-year extension to address the four items. The extension is being requested primary for two reasons. First, it would be a better use of the Town's resources to undertake the public notification and hearing requirements only once. Secondly, the Town is in the process of updating its comprehensive plan and intends to address the recommendations during the review of its entire plan, which is currently underway. The Town is in the final stage of negotiations with a consulting firm to review and revise the plan and has created a review committee. Since it appeared to be the Board's original intent (as indicated in the June 2000 staff report) to have the Town complete the recommendations during the next scheduled review of its comprehensive plan, this one-year extension seems reasonable.

As the Town has shown its commitment to its Bay Act requirements by being one of the first localities to amend its overlay district to be consistent with revised Regulations, and because the Town was without an official town manager for several months which delayed the undertaking of the review of its comprehensive plan, it is staff's opinion that the one-year extension be granted.

MOTION: Mr. Duncanson moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board extend the date for the Town of Kilmarnock to come into compliance with § 10.1-2109 of the Act and § 9VAC10-20-60 3 of the Regulations from December 31, 2004 to December 31, 2005.

SECOND: Mr. Bulova.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Westmoreland County

Ms. Baldwin presented the report for Westmoreland County.

Westmoreland County adopted its *Westmoreland County 1999 Comprehensive Plan* (Plan) on August 9, 1999. The Plan was found consistent with the Act and Regulations by the Board on March 19, 2001 provided that the County undertake and complete the one recommendation contained in the staff report concurrent to the next Plan review but no later than December 31, 2004. Subsequently, the Plan was amended for the purpose of addressing the one consistency condition in the Fall of 2004. The County's Board of Supervisors adopted the proposed revisions in a public hearing on November 8, 2004.

The one condition in the Board Resolution required that the Plan include a more comprehensive analysis of the County's water supply and its protection needs. Towards this end, the Plan is to include data, policies and strategies for protecting both groundwater quality and quantity.

To address this recommendation, the Town amended its comprehensive plan by expanding upon the water quality and quantity section of its comprehensive report and incorporating by reference the Northern Neck Groundwater Management Plan (Groundwater Plan), which contains maps of point and nonpoint sources of potential pollutants to County's groundwater supply.

In addition, the County identified strategies from the Groundwater Plan that were best suited to meet its needs and added those strategies to its comprehensive plan. These strategies include among others, exploring funding opportunities to pay for decommissioning of abandoned wells, possibly incorporating groundwater protection provisions during the site plan review process for industrial and commercial developments, and potentially pursuing wellhead protection measures for groundwater recharge areas once they have been identified.

Finally, towards meeting the water conservation aspect of the recommendation, the County with assistance from the Northern Neck Planning District Commission has created a Water Conservation Starts at Home brochure to be distributed to property owners applying for building permits that affect plumbing fixtures. The brochure will also be made available to the general public at the County Land Use office.

Given the additional information incorporated into the County's comprehensive plan, it is staff's opinion that the condition for consistency has been adequately addressed.

MOTION: Mr. Duncanson moved that the Northern Area Review Committee recommend to the Chesapeake Bay Local Assistance Board that Westmoreland County's comprehensive plan be found consistent with § 10.1-2109 of the Act and § 9VAC10-20-60 3 of the Regulations

SECOND: Mr. Sheffield.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Local Program Reviews: Compliance Evaluation

Town of Occoquan

Ms. Mackey presented the report for the Town of Occoquan.

The Department initiated the Town of Occoquan compliance evaluation in a letter dated July 19, 2004. The first meeting took place in August during which Department staff outlined the compliance evaluation process and reviewed the checklist provided to Town staff as an attachment to the original letter. Two additional meetings were held with the Mayor and Town Engineer during September 2004 to review site plans and conduct four field investigations.

Occoquan is a very small, historic town. It is also predominantly built-out, with limited development opportunities. In recent years development within the Town has been limited in scope and exclusively residential in nature. There are redevelopment opportunities on the horizon, however, particularly along the riverfront in both the commercial town center and older single-family neighborhoods. The Town has designated a Town-wide RMA, RPA along the Occoquan River and all of the perennial streams, and an IDA along the entire riverfront.

Town staff is limited, which has limited the effectiveness of program implementation. The Town Engineer doubles as the Zoning Administrator and serves the Town on a part time, contract basis. The Building Official is also a part time, contract employee. These two individuals are responsible for all plan reviews and approvals, erosion and sediment control inspection and enforcement, and building code compliance inspections and enforcement. The Town Engineer/Zoning Administrator is primarily responsible for administration and enforcement of the Town's Bay Act, site plan, subdivision, and erosion and sediment control ordinances.

Bay Act issues are all addressed as part of the plan of development review process. In general, Department staff finds that while the Town staff is conscientious in its review of

development applications, there is a need for additional documentation, tracking and monitoring of development activities and program compliance in order to adequately administer and enforce the Chesapeake Bay program. Four specific recommendations were made as a result of the compliance evaluation.

The first recommendation requires the Town to revise its Chesapeake Bay Preservation Areas map located in the Comprehensive Plan to reflect the designated RPA as outlined in the Town ordinance. Department staff found that the graphic depiction of the RPA located in the Comprehensive Plan only represents the RPA along the Occoquan River and does not include the named streams designated as RPA in the Town ordinance. Staff recommends that the map reflect the ordinance language in order to reduce potential confusion on the part of applicants.

The second recommendation requires the Town to formalize and document the WQIA submission and review process for any proposed land disturbance, development or redevelopment in the RPA and for development in the RMA when requested by the Town. Department staff found that while WQIAs had been required for larger development proposals, they had not been required for smaller, single lot development or redevelopment projects. In part this was because of the perceived complexity of the WQIA itself; staff provided the Town staff with electronic copies of abbreviated WQIA forms developed to alleviate this problem.

The third and fourth recommendations require the Town to ensure that long-term maintenance of stormwater management facilities is occurring through the development of a BMP maintenance agreement and tracking program, including annual notification of property owners of their responsibility to maintain and inspect BMPs annually. Department staff found that the BMP maintenance agreement requirements were being inconsistently applied and documented.

In addition to these four recommendations, several suggestions were made to assist the Town in implementing the program. Department staff will be available to assist Town staff with their efforts to address the recommendations and suggestions within the required timeframe.

Department staff recommends the Board find certain aspects of the Town's implementation of its Phase I program not fully compliant with the Act and Regulations and that the Town undertake and complete the four recommendations contained in the staff report no later than March 31, 2006.

Mr. Bulova said that some of the suggestions might be more appropriate as recommendations.

Ms. Mackey noted that recommendations for consistency are generally tied specifically to the regulations.

MOTION: Mr. Bulova moved that the Northern Area Review Committee recommend to the Chesapeake Bay Local Assistance Board that the Town of Occoquan's Phase I program be found inconsistent with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC-10-20-231 and 250 of the Regulations and that the Town of Occoquan undertake and complete the four recommendations contained in the staff report no later than March 31, 2006. Further the Northern Area Review Committee recommends that the Board consider changing the suggestion regarding the 16 percent default average calculated land cover into a recommendation, contingent upon staff conversations with the Town prior to the full Board meeting.

SECOND: Duncanson.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Prince William County

Ms. Mackey provided an update for Prince William County.

In the Board packet, members received an update on Prince William County's efforts on the nine compliance evaluation recommendations. Since the memo was written in late December, the County has made additional progress on a number of recommendations. In addition, as requested, they have provided written documentation of several actions they have taken to date.

Of the nine recommendations, it is important to note that they have reached compliance on the two with a December 31, 2004 deadline: the County has committed in writing, in the form of a letter to Scott Crafton, to requiring all BMPs proposed within the RPA to be reviewed through the formal exception process. The Department is working with the County to develop language to be incorporated into the Design Construction Standards Manual (DCSM) that reflects that policy. Secondly, the County has revised its vesting policy to the Department's satisfaction and has notified the development community of that revision in writing.

Additional, incremental progress has been made on the remaining seven recommendations with a December 31, 2005 deadline.

There was no action required.

Town of Colonial Beach

Ms. Baldwin presented the report for the Town of Colonial Beach. She noted that Chuck Bird, Zoning Administrator for the Town, was present.

The compliance evaluation was initiated in April 2004 but because of personnel changes in the Town, the first meeting was not held until August 2004. During this meeting, the evaluation process was more fully explained and the Town's general approach and administration of its Bay Act program was discussed. A second meeting was held in the latter part of August to review site plan and, because time permitted, to conduct field investigations of some of those site plans. A total of eight plans were reviewed with three of them being selected for evaluation in the field.

During the course of the evaluation, Department staff identified areas where the Town of Colonial Beach's implementation of its program does not appear to fully comply with the Act and Regulations. As with the findings from previous compliance evaluations, the recommendations and suggestions concern the lack of documentation in the files. Documents such as WQIAs, inspections, and field notes were largely absent from the files but they are vital to program implementation as they provide a record to establish compliance and demonstrate the Town's decision-making process.

First, the Department recommends that the Town of Colonial Beach begin to require Water Quality Impact Assessments for any land disturbance, development, or redevelopment in a Resource Protection Area. While the Department recognizes that many elements of a WQIA would be considered during a site plan review, the Town must develop a means to document the actual WQIA as required by the Regulations.

The next two recommendations concern BMP and stormwater management performance criteria. The Town has not required maintenance agreements on any of the BMPs that have been permitted and has not established a formal procedure such as a database for tracking and inspecting them. To fully comply with the Regulations, the Town must begin to record all BMPs and establish a means to ensure routine maintenance and inspection. It should be noted that the Department and the Town are currently working on resolving the maintenance agreement requirement and sample agreements have been submitted to the Town.

With respect to stormwater management, it does not appear that the Town is requiring sites qualifying as redevelopment to demonstrate the 10% reduction in pollutant loads nor requiring submission of stormwater management plans. Since the Regulations require the 10% reduction for redevelopment sites, the Town must begin to require stormwater management plans that demonstrate how this requirement is met.

The last recommendation is primarily geared towards the recently annexed territory that the Town acquired from Westmoreland County in 1994. While most of the existing shoreline has been hardened with little of a fully vegetated buffer remaining, this annexed property still retains a natural shoreline. Both the Westmoreland County Wetland Boards and Town should work to ensure that only those applications that meet the criteria for

shoreline erosion control projects are approved and that revegetation requirements are met. The Town must begin to require a WQIA for any proposed shoreline control projects when they are proposed to extend into the RPA and ensure that such projects are necessary, based on best technical advice, and that the buffer is restored with appropriate vegetation.

The staff report also includes some suggestions, which might assist the Town with improving certain aspects of implementation of its local program. These suggestions are bulleted in the report and are not required for compliance.

Ms. Baldwin acknowledged the generous assistance provided by Mr. Chuck Bird, the Town's Zoning Administrator during this evaluation. It is the open communication that provides for a thorough and accurate understanding of program implementation.

Department staff recommended that the Board find that certain aspects of the Town of Colonial Beach's implementation of its Phase I program do not fully comply with the Act and Regulations and that the Town undertake and complete the four recommendations contained in the staff report no later than March 30, 2006.

Mr. Bird noted that the town had no problem with the staff report.

MOTION: Mr. Duncanson moved that the Northern Area Review Committee recommend to the Chesapeake Bay Local Assistance Board that the Town of Colonial Beach's failure to meet the compliance date of March 31, 2006 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9VAC 10-20-231 and 250 of the Regulations and subject the Town of Colonial Beach to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9VAC10-20-250 of the Regulations.

SECOND: Mr. Bulova.

DISCUSSION: None.

VOTE: Motion carried unanimously.

Other Business

Mr. Crafton said that following discussions with Mr. Davis and Mr. Maroon, the Board would be reconstituting the policy committee.

Mr. Davis noted that he would like to schedule two meetings of the policy committee between March and May.

Mr. Davis will serve as an ex-officio member of the Committee.

Adjourn

There being no further business, the meeting was adjourned.